

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Plaintiff,

and

SIERRA CLUB,

Intervenor-Plaintiff,

v.

DTE ENERGY COMPANY AND
DETROIT EDISON COMPANY,

Defendants.

Civil Action No.
2:10-cv-13101-BAF-RSW

Judge Bernard A. Friedman

Magistrate Judge R. Steven
Whalen

JOINT MOTION AND BRIEF TO SET BRIEFING SCHEDULE

On May 22, 2020, Plaintiff-Intervenor Sierra Club filed a motion to enter an agreement (“Separate Agreement”) between Sierra Club and Defendants DTE Energy Company and Detroit Edison Company (collectively “DTE”). *See* Doc. 267. As noted in prior filings, the United States anticipates filing a response to Sierra Club’s motion. At the Parties’ request the Court previously set a schedule for briefing on the motion that would require the United States to file any response by June 26, 2020. *See* Doc. 269.

While the United States has worked diligently to prepare its response, the United States will need more time complete and file its response.¹

Therefore, the Parties jointly propose revised deadlines for the United States to file any response to Sierra Club's motion and for Sierra Club to file any reply brief in support of it:

- United States to file any response by July 10, 2020; and
- Sierra Club to file any reply by August 3, 2020

The Parties represent that this enlargement of the allowable time set forth in the Local Rules is necessary to fully brief the matter before the Court, including the necessary time for client review of the filings.

BRIEF IN SUPPORT OF MOTION

For their Brief in Support of their Joint Motion to Set Briefing Schedule, the Parties rely upon the reasons and authority set forth in the Motion.

¹ This request results, in part, from the numerous public comments the United States has received on the consent decree. The United States received more than 300 comments (though most appear to be duplicative) and is reviewing the comments. The United States plans to make its filing regarding the consent decree at roughly the same time it files a response to Sierra Club's motion.

Respectfully submitted, this the 23rd day of June 2020.

Bruce S. Gelber
Deputy Assistant Attorney General
Environment & Natural Resources Div.

/s/ Thomas A. Benson

Thomas A. Benson
thomas.benson@usdoj.gov
Kristin M. Furrie
kristin.furrie@usdoj.gov
U.S. Department of Justice
Environment & Natural Resource Div.
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044
202-514-5261

Peter Caplan
U.S. Attorney's Office
211 W. Fort Street
Suite 2001
Detroit, MI 48226
*Counsel for Plaintiff United
States*

/s/ Shannon Fisk

Shannon Fisk
Managing Attorney, Coal
Program
Earthjustice
1617 John F. Kennedy Blvd.,
Suite 1130
Philadelphia, PA 19103
T: 215-717-4522
C: 215-327-9922
earthjustice.org
*Counsel for Plaintiff-Intervenor
Sierra Club*

/s/ Harry M. Johnson, III

F. William Brownell
brownell@hunton.com
Harry M. Johnson, III
pjohnson@hunton.com
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
(202) 955-1500

Brent A. Rosser
Hunton & Williams LLP
101 South Tryon Street
Suite 3500
Charlotte, North Carolina 28211
brosser@hunton.com
(704) 378-4707

Matthew J. Lund (P48632)
Pepper Hamilton LLP
4000 Town Center, Suite 1800
Southfield, Michigan 48075
lundm@pepperlaw.com
(248) 359-7370

Michael J. Solo (P57092)
Andrea E. Hayden
DTE Energy
One Energy Plaza
Detroit, Michigan
solom@dteenergy.com
haydena@dteenergy.com
(313) 235-9512
Counsel for Defendants